

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**NASHVILLE, TENNESSEE**

**October 1, 2002**

**IN RE:**

**COMPLAINT OF XO TENNESSEE, INC. AGAINST  
BELLSOUTH TELECOMMUNICATIONS, INC.**

**and**

**COMPLAINT OF ACCESS INTEGRATED  
NETWORKS, INC. AGAINST BELLSOUTH  
TELECOMMUNICATIONS, INC.**

**DOCKET NO.  
01-00868**

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**ORDER DENYING RELIEF REQUESTED IN PETITION TO RECONSIDER**

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This matter came before Chairman Sara Kyle, Director Deborah Taylor Tate and Director Pat Miller of the Tennessee Regulatory Authority (the "Authority"), the voting panel assigned to this docket,<sup>1</sup> at the regularly scheduled Authority Conference held on August 19, 2002, for consideration of the *Petition to Reconsider* ("Petition") filed on July 15, 2002 by XO Tennessee, Inc., Access Integrated Networks, Inc. and ITC^DeltaCom, Inc. (collectively the "Complainants").

The *Petition* initially came before this voting panel at the July 23, 2002 Authority Conference. The Directors implicitly granted the *Petition* by accepting the parties' agreement both to allow BellSouth Telecommunications, Inc ("BellSouth") an additional three days to

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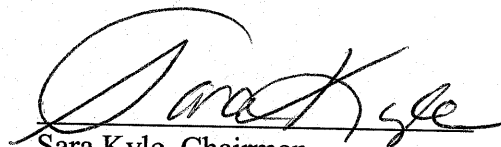
<sup>1</sup> The terms of the former Directors of the Authority, Chairman Sara Kyle, and Directors H. Lynn Greer, Jr. and Melvin J. Malone, expired on June 30, 2002. Chairman Kyle was reappointed and commenced a new term as a Director of the Authority on July 1, 2002. Deborah Taylor Tate, Pat Miller, and Ron Jones began terms as Directors on July 1, 2002. Pursuant to the requirements of the amended provisions of Tenn. Code Ann. § 65-1-204, a three member voting panel consisting of Chairman Kyle and Directors Tate and Miller was randomly selected and assigned to Docket No. 01-00868.

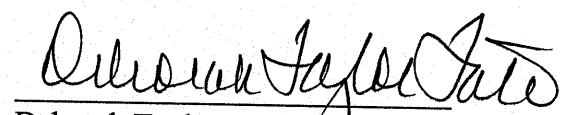
respond to the *Petition* and to defer consideration of the merits of the *Petition* to a subsequent Conference.

After considering the merits of the *Petition*, the Comments of the Consumer Advocate, BellSouth's Response and the Complainant's Reply Brief, at the August 19<sup>th</sup> Authority Conference, a majority<sup>2</sup> of the voting panel determined that the Authority's Final Order of June 28, 2002 should not be modified, and voted to deny the relief requested in the Complainants' *Petition*.

**IT IS THEREFORE ORDERED THAT:**

1. The relief requested in the Complainants' *Petition to Reconsider* is denied;
2. The Authority's June 28, 2002 *Final Order Affirming in Part and Vacating in Part the Initial Order of Hearing Officer* remains unmodified and in effect; and
3. Any party aggrieved by the Authority's decision in this matter may file a Petition for Review in the Tennessee Court of Appeals, Middle Section, within sixty (60) days from the date of this Order.

  
Sara Kyle, Chairman

  
Deborah Taylor Tate, Director

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Pat Miller, Director

<sup>2</sup> \*\*\* Director Pat Miller abstained from voting on the prevailing motion.